

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DIANA SMITH,

Plaintiff,

vs.

JUDGE FLORA WOLF,

Defendant.

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CIVIL ACTION

NO. 05-2849

ORDER AND MEMORANDUM

ORDER

AND NOW, this 16th day of June, 2005, upon consideration of plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (Document No. 1, filed June 15, 2005), Complaint and Motion for Temporary Restraining Order, **IT IS ORDERED** as follows:

1. Leave to Proceed *In Forma Pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915;
2. Plaintiff's Complaint is **DISMISSED** for lack of subject matter jurisdiction; and,
3. The Motion for Temporary Restraining Order is **DENIED**.

MEMORANDUM

I. DISCUSSION:

This case is the second case brought by Diana Smith which arises out of child custody and dependency proceedings in the Common Pleas Court of Philadelphia, Family Court Division. In her Complaint, plaintiff seeks the return of her child who was adjudicated dependent by the defendant, Judge Flora Wolf, on October 17, 2002, and related relief.

To the extent the Complaint seeks damages, the claims are barred on the ground that the defendant, a Judge of the Court of Common Pleas of Philadelphia, Family Court Division, is absolutely immune to liability for damages under § 1983 for acts performed in her judicial

capacity. See Pierson v. Ray, 386 U.S. 547, 553 (1967). To the extent plaintiff seeks equitable relief, although judicial immunity does not bar prospective injunctive relief, Pulliam v. Allen, 466 U.S. 522 (1984), this Court lacks subject matter jurisdiction under the Rooker-Feldman doctrine.

The Court explained the applicability of the Rooker-Feldman doctrine in some detail in its Memorandum of March 3, 2005, in the related case. In short, to the extent plaintiff seeks to change the result of the dependency proceedings in state court, her claims are barred under that doctrine.

“The fundamental principle of the Rooker-Feldman doctrine [is] that a federal district court may not sit as an appellate court to adjudicate appeals of state court proceedings.” Port Auth. Police Benevolent Ass'n v. Port Auth. of N.Y. & N.J. Police Dep't, 973 F.2d 169, 179 (3d Cir. 1992). The Third Circuit recently summarized the Rooker-Feldman doctrine in Knapper v. Bankers Trust Co., 407 F.3d 573 (3d Cir., 2005) as follows:

“[A] claim is barred under Rooker-Feldman under two circumstances; first, if the federal claim was actually litigated in state court prior to the filing of the federal action or, second, if the federal claim is inextricably intertwined with the state adjudication, meaning that federal relief can only be predicated upon a conviction that the state court was wrong.” Id. at 580.

In this case, plaintiff’s constitutional claims were not “actually litigated in state court.” Thus, Rooker-Feldman applies only if plaintiff’s constitutional claims are “inextricably intertwined” with the state court adjudication. See id. at 581.

A claim is “inextricably intertwined” with the state court adjudication when “federal relief can only be predicated upon a conviction that the state court was wrong.” Marran v.

Marran, 376 F.3d 143, 150 (3d Cir. 2004) (citations omitted). “In other words, Rooker-Feldman does not allow a plaintiff to seek relief that, if granted, would prevent a state court from enforcing its orders.” Knapper, 407 F. 3d at 581.

The Court concludes that plaintiff’s claims are inextricably intertwined with her state court dependency proceedings in the Court of Common Pleas of Philadelphia, Family Court Division. The focus of plaintiff’s Complaint is a challenge to the custody order of the state court. If plaintiff prevails on her claims, it would necessarily require a finding that the state court was wrong and “would render that judgment ineffectual.” FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834 (3d Cir. 1996); Walker v. Horn, 385 F.3d 321, 330 (3d Cir. 2004).

Under the Rooker-Feldman doctrine, this Court lacks subject matter jurisdiction to adjudicate the claims in plaintiff’s Complaint. Accordingly, plaintiff’s Complaint is dismissed for lack of subject matter jurisdiction.

BY THE COURT:

JAN E. DUBOIS, J.